FO#2088731

1761551N25A - SH-AD-32A (OPES) (4/91)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: February 9, 2004

EXECUTIVE FORCE REVIEW COMMITTEE POLICY ASSESSMENT **DISPOSITION SHEET**

FILE NO: #2088731

FROM: JOHNNY G. JURADO, COMMANDER DENNIS A. CONTE, COMMANDER MICHAEL G. SAVIDAN, COMMANDER TO: ERIC B. SMITH, CAPTAIN INTERNAL AFFAIRS BUREAU

SUBJECT: BAUDINO, ANTHONY, DEPUTY # SPECIAL ENFORCEMENT BUREAU,

OHS

On May 20, 2003, Deputy Baudino and his partner Deputy Jesse Rodriguez were working on a special saturation patrol assignment due to an increase in gang-related shootings and a threat of a possible attack on a deputy. While driving, they heard several gunshots. Seconds after the gunshots, they saw two male Blacks holding handguns and wearing red bandanas covering their faces running to a waiting stolen vehicle. The vehicle fled and was pursued by the deputies. The vehicle was involved in a collision with a stop sign and came to rest next to a block and wrought iron fence. The two passengers immediately exited the vehicle armed with handguns as Deputies Baudino and Rodriguez drove up to the scene. Deputy Baudino believed that the suspects had just shot at someone, were "Blood" gang members, were fleeing in a stolen vehicle and were armed with handguns and feared for both his and his partner's life. Deputy Baudino fired five rounds from his Beretta handgun while seated in the passenger seat of his patrol car. Suspect Traveon Henderson sustained two gunshot wounds to his buttocks and was immediately apprehended. Suspect Kenneth Bell was later apprehended within the containment by Canine Services Detail (CSD) personnel. A third suspect (driver) fled and was not apprehended.

On January 8, 2004, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards. Concerning:

3-01/025.00, Use of Force, 3-01/025.30, Use of Firearms and Deadly Force, and 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Baudino was reasonable and necessary and in compliance with Department policy.

3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by the the deputies in this incident were within Department Policy. The Committee recognized that tactical issues raised during the meeting had already been discussed with the involved deputies during a tactical debriefing of the incident with the Unit Commander.

Johnny G. Jurado, Commander



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY• Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

RICHARD D. DOYLE • Director

March 1, 2004

Captain Raymond Peavy
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Commerce, CA 90040

Re: J.S.I.D. File # 03-0412

L.A.S.D. File # 003-04871-0378-055

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 20, 2003, non-fatal shooting of Traveon Henderson by Los Angeles County Sheriff's Deputy Anthony Baudino. Based upon the information submitted to this office, we have determined that Deputy Baudino acted lawfully in self-defense and the defense of others.

The following analysis is based upon a series of reports prepared by the Los Angeles County Sheriff's Department submitted to this office on September 18, 2003. No compelled statements were provided or reviewed. The District Attorney Command Center was notified of this shooting at 10:30 p.m. on May 20, 2003. Deputy District Attorney Margo Baxter and District Attorney Senior Investigator responded to the scene. They were given a briefing and provided with a "walk through" of the scene by Sheriff's Investigators.

FACTUAL ANALYSIS

On May 20, 2003, Deputies Anthony Baudino and Jesse Rodriguez were assigned to the Special Enforcement Bureau working directed patrol. They were assigned to the Lennox Sheriff's Station's Vermont District due to a large number of gang shootings in the area. At approximately 10:00 p.m., was standing in front of looking at one of the tires on his truck. Four of friends were also standing in front of the location. They dropped to the ground to avoid being hit by gunfire and then made their way to the backyard of the house for safety. The bullets shattered the



Captain Peavy March 4, 2004 Page 2 of 4

rear left window of truck and the rear window of another car parked in front of the location.

At the same time, Deputies Baudino and Rodriguez were finishing a patrol check of Helen Keller Park located on 126th Street. They heard approximately 5 gunshots, a pause and then approximately 6 more gunshots coming from Budlong Avenue. Deputy Rodriguez drove westbound on 126th Street and turned right onto Budlong Avenue. He and Deputy Rodriguez saw two black males walking north on Budlong Avenue from 125th Street wearing red bandanas over their faces. Each was carrying a large caliber handgun. The two males got into a parked Jeep Cherokee and sped away northbound on Budlong Avenue. Rodriguez activated the lights and sirens of the patrol car. Baudino broadcast that they were in pursuit.

The Jeep turned eastbound on 123rd Street and ran the stop sign at Vermont Avenue. After hitting a dip in the road, the Jeep went airborne and "fishtailed" when it landed. The Jeep spun out of control and crashed into a masonry wall surrounding a home located at West 123rd Street. As the Deputies drove eastbound on 123rd Street toward the Jeep, the front right passenger, later identified as Traveon Henderson, got out and pointed a handgun at them. In fear for his life, Deputy Baudino, who was still in the moving patrol car, fired his service pistol one or two times at Henderson. A black male seated in the rear seat, later identified as Kenneth Bell, got out of the Jeep also holding a handgun. Bell passed Henderson who was running east on the south sidewalk toward the driveway of West 123rd Street. Henderson turned toward the deputies with his hands in his waistband as he continued to run. Fearing that he and his partner were about to be shot, Baudino fired again, possibly striking Henderson who fell to the ground. Henderson stood up and again reached toward his waist. Baudino ordered Henderson to raise his hands. Henderson did not comply. Fearing Henderson was going to shoot him or his partner, Baudino fired an additional shot.

Bell climbed a block wall just east of the driveway. At the top of the wall he paused and appeared to be stuck. According to Baudino and Rodriguez, it appeared that Bell pointed the gun he was holding at them. When Bell did not comply with their orders to drop the gun, Baudino, still seated in the patrol car, fired one shot at Bell. Bell continued over the wall and was later located, with the assistance of a K-9, several blocks away. Bell did not receive any gunshot wounds. He was not in possession of a gun at the time he was taken into custody.

Rodriguez and Baudino drove eastbound and pulled into the driveway of Street, possibly striking Henderson with their car. Henderson continued up the driveway and behind a car. Baudino saw Henderson crawling on the ground and ordered him to show his hands. At the same time, Baudino and Rodriguez saw a third suspect get out of the Jeep and run north on Ainsworth Street out of view. Baudino took Henderson into custody just west of the driveway in the yard of West 123rd Street. He had two gunshot wounds to his buttocks. Henderson was transported to Martin Luther King

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Medical Center. Baudino surrendered his service weapon to investigators at the scene. It was determined that Baudino fired a total of 5 rounds during the incident.

A .45 caliber pistol was recovered from the sidewalk just below the front passenger door of the Jeep. It was examined and found to be loaded with one live round. On the front lawn where Henderson was taken into custody, a .38 caliber revolver was located. It contained 6 expended .38 caliber shell casings.

Henderson and Bell were both charged, in case number YA055191, with multiple counts of attempted murder and other felony charges stemming from the shooting on 125th Street. They are currently awaiting preliminary hearing in the Inglewood branch office.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense or the defense of another actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Williams, (1977) 75 Cal.App.3d 731.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALJIC 5.30, 5.32.

Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins, (1961) 189 Cal.App.2d 575.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo, (1948) 85 Cal.App.2d 577.

CONCLUSION

On May 20, 2003, Deputies Baudino and Rodriguez were assigned special patrol duty in the Vermont area due to an increased number of gang shootings. As they finished a patrol of Helen Keller Park, they heard gunshots nearby and drove to that location. Moments earlier, two male blacks had opened fire on a group of friends as they stood outside of a residence. Baudino and Rodriguez saw the two males carrying large caliber handguns get into a stolen Jeep where, unbeknownst to the deputies at the time, a getaway driver was waiting. The Jeep engaged the officers in a short pursuit before



colliding with a block wall. Henderson and Bell both got out of the Jeep carrying handguns. As Henderson fled, he twice reached toward his waistband and turned back toward the deputies. In fear for his and his partner's life, Baudino fired several shots at Henderson hitting him twice in the buttocks. As Bell climbed a wall east of the driveway, he turned toward the officers who both believed he was carrying a handgun. Baudino fired an additional shot at Bell but did not strike him.

No additional handgun was recovered on Bell, or in his immediate area, when he was taken into custody. However, a handgun was recovered outside of the passenger-side door of the Jeep. It is possible that Bell exited the Jeep holding the handgun as seen by the officers and then dropped it before running away. The events moved rapidly. Baudino was firing at Henderson while he was still seated in the patrol car driving toward the location. It was dark, the deputies were shouting orders and both suspects were running. Bell's movements in dropping the gun may easily have been hidden from the deputies' view. When Bell made a pointing motion toward the deputies as he climbed the wall, it was reasonable for them to believe that a gun was being pointed at them. Under those circumstances, it was reasonable for Deputy Baudino to believe that, in order to prevent serious injury or death, the use of deadly force was necessary.

We find that Deputy Anthony Baudino acted in lawful self-defense and the defense of others. We are closing our file and will take no further action on this matter.

Very truly yours,

STEVE COOLEY
District Attorney

MARGO BAXTER

Deputy District Attorney

Marzo Baxter

(213) 974-6326

c:

Deputy Anthony Baudino, #

Los Ageles County Sheriff's Department Officer Involved Shooting

Page _1 of _4

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Officer Involved Shooting

URN: 003-04871-0378-013

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NONE

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(BR)	Beretta	(LO)	Lorcin	(SW)	Smith & Wesson
(BW)	Browning	(LU)	Luger	(SR)	Sturm Ruger
(CH)	Charter Arms	(MA)	Marlin	(ST)	Sterling
(CO)	Colt	(MO)	Mossberg	(TA)	Taurus
(DA)	Davis Industries	(NC)	NCI aka SKS	(WE)	Weatherby
(GL)	Glock	(NA)	North American	(WN)	Winchester
(HA)	Harrington & Richardson	(NO)	Norinco	(US)	US Government
(HI)	Hi Standard	(RA)	Raven	(YY)	Handmade (Inmate)
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Cal	iber	-	•		
(9) (10) (12) (20) (21) (22) (23)	9 mm 10 mm 12 guage 20 guage .22-250 .22 caliber .223 caliber	(24) (25) (30) (35) (36) (38) (40)	.243 caliber .25 caliber .308 caliber .357 caliber .30-60 caliber .38 caliber .40 caliber	(41) (44) (45) (50) (SL) (WW)	.410 guage .44 caliber .45 caliber 50 mm Slug Other calibe

FORCE APPLIED (one code per block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	BR	9	Υ	Υ	GS	BT
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Officer Involved Shooting Involved Employee Information

URN: 003-04871-0378-013

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				Involved Employee		
E_1_	Employee #	Last Name Baudino			First Name Anthony	м.i. J.
	Sex: Race: W	Rank Deputy		Unit Assignment: S.E.B.	Work Assignment (Unit #, N	Module, etc.): 246A
	ShiftTime (circle only one): EM PM Day	ShiftType (circle only one): Regular Overtime Off Duty		Intoxication/Drug Usage?	Substance Used:	
	Hospital Admission?	Hospital Name:		Coroner Case?	Coroner Case #	Interviewed?
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Officer Involved Shooting Involved Employee Information

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	Field Training Officer Emp #	Last Name			First Name		M.I.

Officer Involved Shooting Suspect Information

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			uspecti	nformation	20.0	
S_1_	Last Name Henderson			First Name Traveo	n	M.I.
	AKA Last Name			First Name		M.I.
	Sex: M Race: B	Street Address:		City		State & Zin Code
	Work Phone:	Home Phone:	Social Sec	curity #:	Driver's License #	
	Age: 22 D.O.B. 10-02-80	Height: Weight: 200	FBI#		CII#	
	Booking # 7701351	Primary Charge: 664/187	7 PC	Secondary Charge:		
	Coroner Case?	Coroner Case #		Intoxication/Drug Usage?	Substance Used:	
	Armed?	Apprehended?		Mental Illness?	Criminal History?	
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	Sex: M Race: B			City		
	Work Phone:	Home Phone:	Social Sec	curity #:	Driver's License #	
	Age: 20 D.O.B. 07-02-82	Height: 600 Weight: 158	FBI#		Cli#	
	Booking # 7701087	Primary Charge: 664/187	7 PC	Secondary Charge:		
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<u>s 3</u>	AKA Last Name Sex: Race:	Street Address:	Social Sec	First Name First Name City		M.I.
S_3_	ONKNOWN AKA Last Name Sex: Race: Work Phone:	Street Address: Home Phone:		First Name First Name City	Driver's License #:	M.I.
<u>s_3</u>	Work Phone: Age: D.O.B.	Street Address: Home Phone: Height: Weight:		First Name First Name City surity #:	Driver's License #:	M.I.
S 3	Sex: Race: Work Phone: Age: D.O.B. Booking #	Street Address: Home Phone: Height: Weight: Primary Charge:		First Name First Name City surity #: Secondary Charge:	Driver's License #: CII # Substance Used:	M.I.
S 3	Work Phone: Age: D.O.B. Booking # Coroner Case?	Street Address: Home Phone: Height: Weight: Primary Charge: Coroner Case #		First Name First Name City surity #: Secondary Charge:	Driver's License #:	M.I.
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<u>s_3</u>	Sex: Race: Work Phone: Age: D.O.B. Booking # Coroner Case? Vehicle Make	Street Address: Home Phone: Height: Weight: Primary Charge: Coroner Case #		First Name First Name City curity #: Secondary Charge: Intoxication/Drug Usage? Mental Illness? Model: First Name	Driver's License #: CII # Substance Used: Criminal History?	M.I. M.I. State & Zip Code:
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#

SWORN WITNESS

RODRIGUEZ, Jesse Deputy#



CIVILIAN WITNESS



EXHIBITS A THROUGH F

- A Lennox Sheriff's Station Reports under File #003-04271-0378-055.
- **B** Photographs depicting scene at 123rd Street and Ainsworth Avenue.
- C Photographs depicting suspect vehicle's path.
- **D** Photographs depicting Deputy Baudino's shell casings positions.
- E Photographs depicting gate that Suspect Bell jumped and damage to radio car.
- **F** Photograph depicting location where Suspect Henderson was apprehended.

MISCELLANEOUS DOCUMENTS

Deputy Anthony Baudino's shooting records
Deputy Anthony Baudino's Personnel Performance Index.